

**AGENDA MEMO**

**CITY COUNCIL MEETING DATE: MARCH 21, 2007**

**DEPARTMENT: PLANNING AND DEVELOPMENT**

**ITEM DESCRIPTION: ABEYANCE ITEM - VAR-18790 - APPLICANT/OWNER:  
WENDELL D. AND LINDA G. GENTRY**

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***THIS ITEM WAS HELD IN ABEYANCE FROM THE MARCH 7, 2007 CITY COUNCIL MEETING AT THE REQUEST OF COUNCILMAN ROSS.***

**\*\* CONDITIONS \*\***

Staff recommends DENIAL. The Planning Commission (5-2/ds, se vote) recommends APPROVAL, subject to:

**Planning and Development**

1. Conformance to the conditions for Special Use Permit (SUP-18789) if approved.
2. This approval shall be void two years from the date of final approval, unless a certificate of occupancy has been issued or upon approval of a final inspection. An Extension of Time may be filed for consideration by the City of Las Vegas.
3. If approved submit revised plans showing the required three-foot setback distance between the nearest portion of the non-habitable accessory structure and the south property line, while still maintaining a minimum 6-foot separation from the principal structure.
4. There will be a minimum five foot southerly setback.
5. The accessory structure is to be 1740.

**\*\* STAFF REPORT \*\***

**PROJECT DESCRIPTION**

This is a request for a Variance to allow a 1,831 square foot, non-habitable, detached accessory structure to be larger than 50% of the primary structure. The existing single family dwelling is 2,296 square feet, which would allow a detached accessory structure to be a maximum of 1,148 square feet. The applicant is requesting an additional 683 square feet. The proposed accessory will consist of two spaces, 1,345 square feet to be used as a workshop and vehicle storage, the remaining 486 square feet will be a game room. No physical hardship was cited to justify this request.

A companion Special Use Permit has been filed with this application and will be heard concurrently with this request.

**BACKGROUND INFORMATION**

<b><i>Related Relevant City Actions by P&amp;D, Fire, Bldg., etc.</i></b>	
02/08/07	The Planning Commission recommended approval of companion item SUP-18789 concurrently with this application.  The Planning Commission voted 5-2/ds,se to recommend APPROVAL (PC Agenda Item #24/lhm).
<b><i>Related Building Permits/Business Licenses</i></b>	
1/3/1997	Building Permit for a single family home
<b><i>Pre-Application Meeting</i></b>	
11/27/06	A pre-application meeting was held to discuss the requirements of the Variance, siting options for an accessory structure on the subject site. Building Department talked about fire rating and lighting for shop area.
<b><i>Neighborhood Meeting</i></b>	
	A neighborhood meeting is not required for this application.

<b><i>Details of Application Request</i></b>	
<b><i>Site Area</i></b>	
Net Acres	.52

<b>Surrounding Property</b>	<b>Existing Land Use</b>	<b>Planned Land Use</b>	<b>Existing Zoning</b>
Subject Property	Residential	DR(Desert Rural)	R-E(Residential Estates)
North	Residential	DR(Desert Rural)	R-E(Residential Estates)

South	Residential	DR(Desert Rural)	R-E(Residential Estates)
East	Residential	DR(Desert Rural)	R-E(Residential Estates)
West	Residential	DR(Desert Rural)	R-E(Residential Estates)

<i>Special Districts/Zones</i>	<i>Yes</i>	<i>No</i>	<i>Compliance</i>
<b>Special Area Plan</b>		X	NA

<i>Special Districts/Zones</i>	<i>Yes</i>	<i>No</i>	<i>Compliance</i>
<b>Special Purpose and Overlay Districts</b>			
A-O Airport Overlay District	X		N/A
<b>Trails</b>		X	N/A
<b>Rural Preservation Overlay District</b>	X		N/A
<b>Development Impact Notification Assessment</b>		X	N/A
<b>Project of Regional Significance</b>		X	N/A

#### **A-O Airport Overlay District**

A single family dwelling exists on the subject site, at a height of fifteen feet, ten inches. The proposed detached accessory structure will be constructed at a finished height of fourteen feet, ten inches and is not affected by the 105-foot height restriction.

#### **Rural Preservation Overlay District**

Density is not affected by this project and does not require application of the requirements of the Rural Preservation District.

#### *As per 19.08*

<i>Standard</i>	<i>Required/Allowed</i>	<i>Provided</i>	<i>Compliance</i>
Min. Lot Size	20,000 Square Feet	21,877	Y
Min. Lot Width	100 Feet	100 Feet	Y
Min. Distance Between Buildings	6 feet	6'9"	Y
Max. Lot Coverage	50%	19%	Y
Max. Building Height	2 Stories or 35 Feet	14'10"	Y

In the plans provided, the 3-foot setback on the south building side of the accessory structure has been taken from the face of building and does not account for the distance of the roof eaves. If approved, this application has been conditioned to require revised plans showing the required three-foot setback distance between the nearest portion of the non-habitable accessory structure and the south property line, while still maintaining a minimum 6-foot separation from the principal structure.

## **ANALYSIS**

The existing home is located on an R-E lot with a lot size of 21,877 square feet. The applicant proposes to construct a detached accessory structure on the side yard of the existing 2,296 square foot single family residence. The allowable size of an accessory structure is 50% of the primary structure in this case the proposed accessory structure has been increased by 37% of that which is permitted by code. The maximum allowable size for an accessory structure on this property is 1,148 square feet. In order to provide a workshop, vehicle storage and a game room the structure is enlarged by an additional 683 square feet, which is an increase in size of 37%. While the proposed deviation from standards to allow a detached accessory structure to be 1,831 square-feet where 1,148 square feet is the maximum allowed, the deviation from standards is considered a self-imposed hardship.

The detached accessory structure as proposed is an attempt to overbuild the site, and staff cannot recommend approval for this application. The hardship is personal and self-created; therefore, staff must recommend denial.

## **FINDINGS**

In accordance with the provisions of Title 19.18.070(B), Planning Commission and City Council, in considering the merits of a Variance request, shall not grant a Variance in order to:

1. Permit a use in a zoning district in which the use is not allowed;
2. Vary any minimum spacing requirement between uses;
3. Relieve a hardship which is solely personal, self-created or financial in nature.”

Additionally, Title 19.18.070L states:

“Where by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of enactment of the regulation, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of the piece of property, the strict application of any zoning regulation would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardships upon, the owner of the property, a variance from that strict application may be granted so as to relieve the difficulties or hardship, if the relief may be granted without substantial detriment to the public good, without substantial impairment of affected natural resources and without substantially impairing the intent and purpose of any ordinance or resolution.”

No evidence of a unique or extraordinary circumstance has been presented, in that the applicant has created a self-imposed hardship by building a non-habitable detached accessory structure which would exceed the maximum allowable square footage. Alternative is to reduce the size of the accessory structure by 683 square feet, which would allow conformance to the Title 19 requirements. In view of the absence of any hardships imposed by the site's physical characteristics, it is concluded that the applicant's hardship is preferential in nature, and it is thereby outside the realm of NRS Chapter 278 for granting of Variances.

#### **PLANNING COMMISSION ACTION**

The Planning Commission added conditions 4 and 5. There was one speaker in opposition at the Planning Commission Meeting.

#### **NEIGHBORHOOD ASSOCIATIONS NOTIFIED**

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**ASSEMBLY DISTRICT** 1

**SENATE DISTRICT** 4

**NOTICES MAILED** 178 by City Clerk

**APPROVALS** 0

**PROTESTS** 0